

**PLANNING COMMISSION APPROVED MINUTES**

**2004-0139 – Miro Design Group [Applicant] Masood Syed [Owner]:**  
Application for related proposals on a 9,562 square-foot site located at **560 South Mathilda Avenue** in a DSP-20 (Downtown Specific Plan/Block 20) Zoning District. (Mitigated Negative Declaration) (APN: 209-29-058) SL

- **Special Development Permit** to allow demolition of an existing single-family home and to construct an 8,200 square-foot three story mixed-use office and residential building, and
- **Tentative Map** to subdivide one lot into six condominium spaces and one common lot.

Steve Lynch, Project Planner, presented the staff report. Staff summarized the proposed project highlighting the use, site layout, architecture, landscaping, circulation and parking. He noted the deviation from the municipal code to allow three feet into a ten foot vision triangle in the front setback of the property. Staff supported the deviation as it meets the intent of the vision triangle because the site has a 20-foot sidewalk. Further, staff added that the Downtown Specific Plan allows a zero lot line on this site. Staff noted a correction to the staff report that adjacent property 562 South Mathilda is listed as a heritage resource due to its architecture and has no local landmark designation. Staff was able to make one of the required Findings and recommended adoption of the Mitigated Negative Declaration and approval of the Special Development Permit and Tentative Map subject to Conditions of Approval.

Chair Moylan asked staff about a large tree near the border of the subject site but protection was not addressed in the staff report. Staff responded that all existing trees on adjacent properties will be protected.

**Chair Moylan opened the public hearing.**

**Anthony Ho**, Architect for the applicant, thanked staff for a thorough report. He noted that his company has worked with staff for over a year now to ensure that the design is meeting with the recently approved Downtown Specific Plan (DSP). He stated that there is minimal impact to adjacent properties, the density is less than what is allowed and the building height is shorter than what is allowed. He demonstrated with a diagram the mass and density what is allowed by the DSP. He stated that the proposed project is in the middle of the Block 20 where the proposed bulk and mass is an appropriate transition. He also discussed that the fine architecture and mass is well articulated and roof lines are broken up to avoid a bulky feeling. He further noted that the open garage on the ground floor reduces massiveness at the street level and a roof top garden is ideal for urban districts which provides quietness, protection and privacy. He summarized that the proposal has high quality architecture setting standards for future projects in

the Downtown, provides homeownership and extends mixed use to the south end of Mathilda. Further, he added that a roof top garden design is a new solution for open space in the downtown. He urged the Commission to keep an open mind that they are the first developer to deliver what the DSP calls for. He asked the following: "if not this project, what? if not now, when?"

**James Efting**, resident and attorney for Carolyn Ryan, spoke on behalf of his client who owns a property adjacent to the subject site noting that the two lives and has a business in downtown. He stated that the subject block is important to the Downtown. He commented that staff is stretching to make the project work. He felt that it is not the right choice at this time. The project is a large building between two long term ownership properties. He suggested developing something that would be a credit to the community. He stated that both adjacent tenants opposed the project and did not want to see the eight-foot wall and large buildings. He stated that the project strongly impacts the neighbors. He addressed the applicant's questions – 1) as to what project, he suggested that this single lot unit would be difficult and would restrict flexibility in the area, and 2) as to when, probably three to five years but now is not suitable. He urged the Commission to deny the project as the project is not consistent with the General Plan and not physically suitable at this time.

**Jeanine Stanek**, resident, thanked staff and Ms. Ryan for their assistance. She expressed the following concerns: 1) deviation from the vision triangle – she felt that Mathilda Avenue is a very busy street and what should be required is more visibility and not less; 2) privacy impact to adjacent properties – there are some hallways with windows on the south and north side, and 3) shadow impact to the north side property. She concurred with the previous speaker that maybe this is not the proper time for this type of project in this block. She added that the project is large on such a small lot.

Comm. Simons asked Ms. Stanek to further explain her opposition to the project since the project meets the zoning requirements. Ms. Stanek responded that she understands that project meets the intent of the General Plan but she has concerns with the deviation and privacy impacts at this time. Maybe in the long term, it may fit in but not at this time.

**Stan Kawczynski**, resident, stated that the letter sent by David Zarko on behalf of his mother Ann Zarko should be read for the public to hear. He further stated that Ms. Zarko's property would be heavily impacted with this development. He stated that the property owner should be contemplating land aggregation to build a master project. He is against a piecemeal project. Chair Moylan stated that Mr. Zarko's letter is attached to the staff report.

Chair Moylan clarified whether he is a property owner of one of adjacent properties. Mr. Kawczynski responded that he is a tenant of 562 S. Mathilda and not its property owner.

Further, Chair Moylan asked the speaker to elaborate his statement about waiting for these parcels to be available for development all at once as it would be unlikely for the parcels to be simultaneously available. Mr. Kawczynski explained how the city participates in land aggregation for flexibility and facilitation of a Master Plan and that these applicants should plan on using the same approach.

**Masood Syed, owner,** appreciated the concerns expressed by the neighborhood. He stated that they met with the neighbors during the planning stage and asked whether the property owners are willing to sell their properties. He noted that Ms. Carolyn Ryan is not willing to sell her property for sentimental reasons. He addressed the shadow concerns to Ms. Zarko's property and stated that there would be some shadow impact but minimal contrary to what was stated by an earlier speaker.

**Chair Moylan closed the public hearing.**

Comm. Sulser asked staff to clarify the Findings when the property is developed and whether the city could force land aggregation. Ms. Ryan clarified that the Commission needs to make at least one of the two Findings for the Special Development Permit. With the Tentative Map, the Commission needs to make a Finding that it is consistent with the General Plan and if the Commission is able to make any of the eight specified Findings, the Tentative Map must be denied. Further, she clarified about imposing a condition for aggregation on the development of the subject property. She stated that some of the Blocks in the DSP, have a minimum development size requiring a combination of one parcel or more. However, this particular Block does not have this requirement. Should the Commission feel that for the interest of the Block, this project is best accomplished through land aggregation, then it could be factored in the consideration of the proposed project, but cannot make it a requirement.

**Comm. Simons made a motion on Item #2004-0139 to adopt the Mitigated Negative Declaration and deny the Special Development Permit and Tentative Map. Comm. Klein seconded.**

Comm. Simons commented that the proposed project impacts the residents and that he was unable to make the required Findings. He noted the impacts to the local housing in regarding to Finding #B1. Regarding Finding #D3, a lower density project would be more appropriate at this time. Higher density would require more transition time and land aggregation. Further, Finding #E1, some of the deviations, sightline, egress and ingress are unacceptable as they may

impact the street character at this time. Comm. Simons recounted a situation where a project was approved by Council as an important interim solution as it was premature to accomplish the long term solution.

Comm. Klein commented that during his site visit, he concurred about the parking issue and the concern with the deviation from the vision triangle due to the small lot size. He also expressed concerns about the egress and ingress during trash pickup. He understood the burden of the applicant being the first to develop as specified in the Downtown Specific Plan. However, the design would be out of character for the Block at this time and its privacy impacts to the neighborhood.

Vice Chair Hungerford commented that it is a hard issue because the design meets the recently approved Downtown Specific Plan. However, he supported the motion because he was not able to make the required Special Development Findings regarding the development impacts to adjacent properties. Further, he stated that he was not able to make the required Findings for the Tentative Map as the site is too small for the bulk and massiveness of the development.

Chair Moylan understood Vice Chair Hungerford in denying the Tentative Map because the site is not suitable for the proposed development. However, he did not support the motion. He felt that the project meets the intent and goals of the Downtown Specific Plan. Therefore, he supported the Special Development Permit. He reviewed the situation described by Comm. Simons differently. This particular project is the opposite because the applicant is supporting the goals of the General Plan and the DSP. Therefore, he did not support the motion.

Comm. Simons commented that it is generally important to be objective and consider the appropriate use and development and not just the individual situation; however, it is also important to consider an orderly transition of developable projects.

**Motion carried 3-2 with Chair Moylan and Comm. Sulser dissenting and Comms. Babcock and Fussell absent.**

**Ms. Ryan stated that the decision is final unless appealed to the City Council with payment of appeal fee within the 15-day appeal period.**